

## COUNTY OF FAIRFAX, VIRGINIA

### SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

ANDRE DE MEGRET, SP 2011-SP-112 Appl. under Sect(s). 8-918 and 8-923 of the Zoning Ordinance to permit an accessory dwelling unit within an existing dwelling and a fence greater than 4.0 ft. in height to remain in a front yard. **(THE BZA DID NOT APPROVE THE FENCE.)** Located at 6800 Dante Ct., West Springfield, 22152 on approx. 16,111 sq. ft. of land zoned R-2 (Cluster). Springfield District. Tax Map 89-1 ((7)) 58. Ms. Gibb moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on March 28, 2012; and

WHEREAS, the Board has made the following findings of fact:

1. The applicant is the owner of the property.
2. With respect to the accessory dwelling unit, the staff report is adopted, which recommends approval.
3. Both neighbors testified that they did not really have a problem with the end result being the one occupant of the property in the downstairs of the unit.
4. It seems to comply with all the required standards.
5. With respect to the fence, based on the photographs and the testimony, the application for special permit is denied.
6. The applicant has not met the required Standard 8-923.4, that the fence will be in character with the existing on-site development.
7. The Board heard testimony that there are no other fences of this character in the neighborhood.
8. The fence will not be harmonious with the surrounding off-site uses and structures in terms of location, height, bulk, scale, and any historic designations.
9. The fence does not fit into the neighborhood.
10. The fence is too tall, and even if it is scaled down, it is out of character with the existing homes and the neighborhood.
11. As the fence exists, it blocks sightlines from the neighbors and from the street unnecessarily.
12. The fence does not meet Standard 5, that the BZA shall determine that the proposed fence and/or wall increase shall not adversely impact the use and/or enjoyment of other properties in the immediate vicinity.

13. The Board had testimony from neighbors that the fence does impact their use and enjoyment. Based on the photographs presented, the Board agrees with their assessment, which is aesthetic and subjective in nature.
14. With respect to the fence, the applicant has not presented testimony indicating compliance with the general standards for special permit uses as set forth in Sect. 8-006 and the standards for this use, the fence, as contained in the appropriate section of the Zoning Ordinance.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is **APPROVED-IN-PART** with the following limitations:

1. These conditions shall be recorded by the applicant among the land records of Fairfax County for this lot prior to the issuance of a building permit for the kitchen in the accessory unit. A certified copy of the recorded conditions shall be provided to the Zoning Permit Review Branch, Department of Planning and Zoning.
2. This approval is granted to the applicant only, Andre de Megret, and is not transferable without further action of this Board, and is for the location indicated on the application, 6800 Dante Court (16,111 square feet), and is not transferable to other land.
3. This special permit is granted only for the purposes, structures and/or uses indicated on the plat prepared by Merestone Land Surveying PLLC, dated March 30, 2010, revised through August 11, 2011, and approved with this application, as qualified by these development conditions. Notwithstanding what is shown on the plat, the fence is not approved.
4. A copy of this special permit SHALL BE POSTED in a conspicuous place on the property of the use and made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
5. The occupants of the principal dwelling and the accessory dwelling unit shall be in accordance with Par. 5 of Sect. 8-918 of the Zoning Ordinance which states in part that one of the dwelling units shall be occupied by a person or persons who qualify as elderly (55 years of age or older) and/or permanently and totally disabled.

6. The accessory dwelling unit shall contain a maximum of 558.44 square feet, and the layout shall be generally as depicted on the floor plan included as Attachment 1 to these conditions.
7. All applicable building permits and final inspections shall be obtained for construction of the kitchen in the accessory dwelling unit prior to occupancy.
8. Provisions shall be made for the inspection of the property by County personnel during reasonable hours upon prior notice and the accessory dwelling unit shall meet the applicable regulation for building, safety, health and sanitation.
9. The accessory dwelling unit shall be approved for a period of five (5) years from the final approval date of the special permit and may be extended for five (5) year periods with prior approval of the Zoning Administrator in accordance with Section 8-012 of the Zoning Ordinance.
10. If the use of the accessory dwelling unit ceases and/or the property is sold or otherwise conveyed, the accessory structure shall be converted to a use permitted by the Zoning Ordinance or if the property is sold or conveyed, a special permit amendment may be submitted to permit the continued use of an accessory dwelling unit.
11. The existing fence shall be either reduced in height to 4.0 feet or less or removed within three months of approval of this special permit.
12. All parking shall be provided on site as shown on the special permit plat.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

Pursuant to Sect.8-015 of the Zoning Ordinance, this special permit shall automatically expire, without notice, six (6) months after the date of approval unless the use has been established as outlined above. The Board of Zoning Appeals may grant additional time to establish the use if a written request for additional time is filed with the Zoning Administrator prior to the date of expiration of the special permit. The request must specify the amount of additional time requested, the basis for the amount of time requested and an explanation of why additional time is required.

Mr. Byers seconded the motion, which carried by a vote of 5-0. Mr. Smith was not present for the vote. Mr. Beard was absent from the meeting.

A Copy Teste:

*K.A. Knoth*

Kathleen A. Knoth  
Clerk to the Board of Zoning Appeals

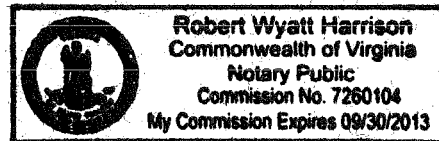
ACKNOWLEDGEMENT

County of Fairfax  
Commonwealth of Virginia

The foregoing instrument was acknowledged before me this 4<sup>th</sup> day of April, 2012.

*Robert Wyatt Harrison*  
\_\_\_\_\_  
Notary Public

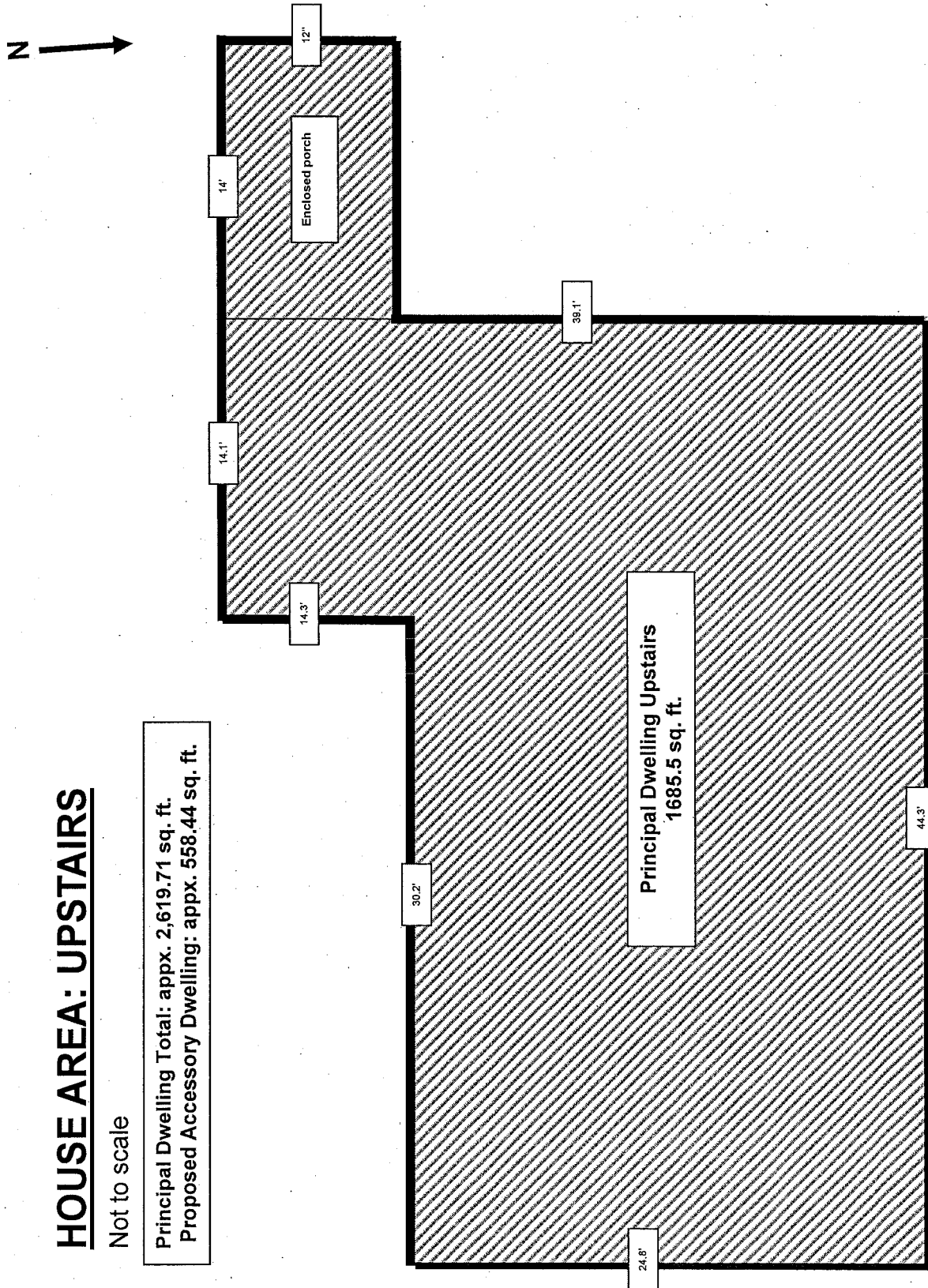
My commission expires: 9-30-2013



## HOUSE AREA: UPSTAIRS

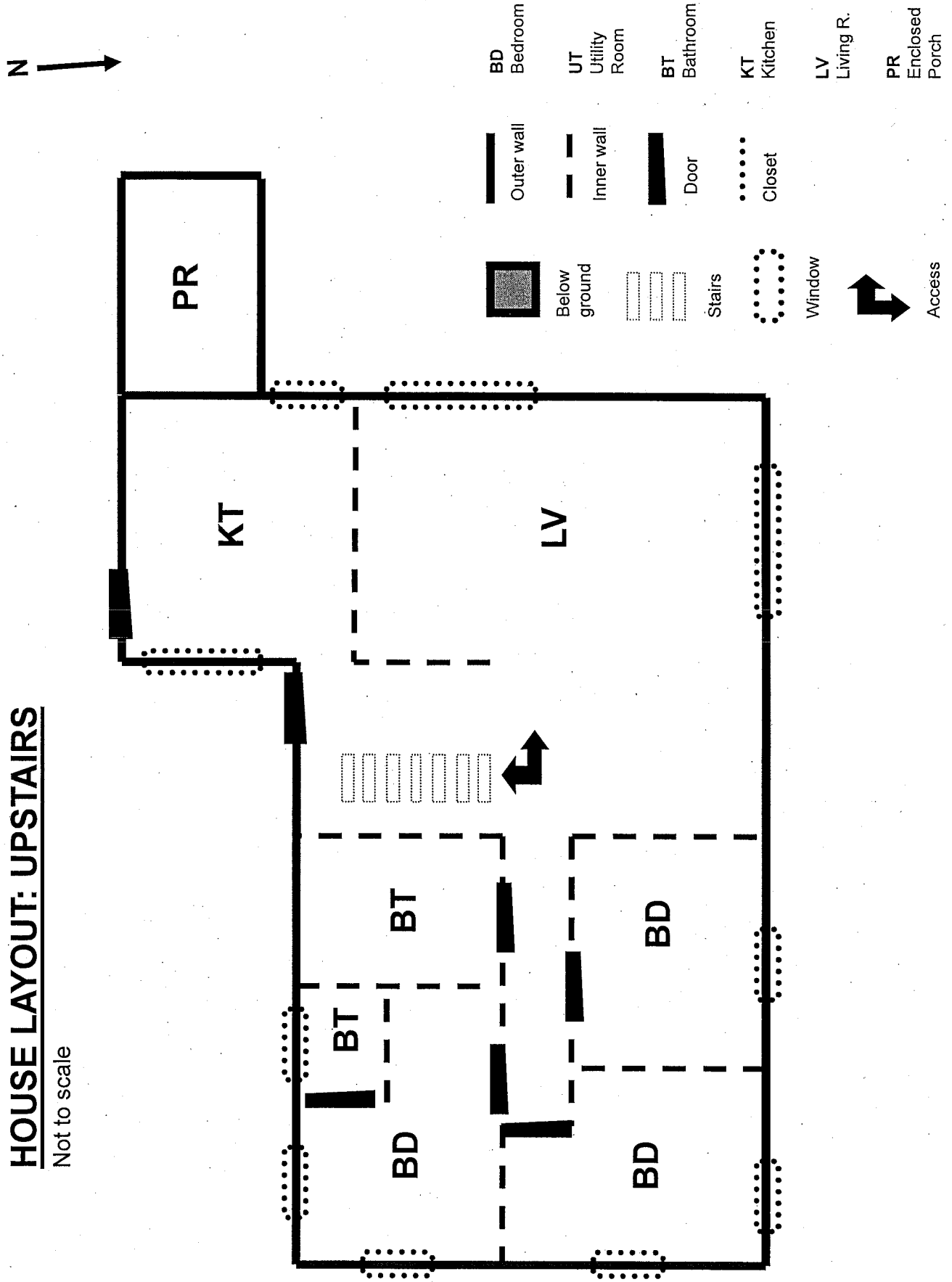
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Principal Dwelling Total: appx. 2,619.71 sq. ft.  
Proposed Accessory Dwelling: appx. 558.44 sq. ft.



# HOUSE LAYOUT: UPSTAIRS

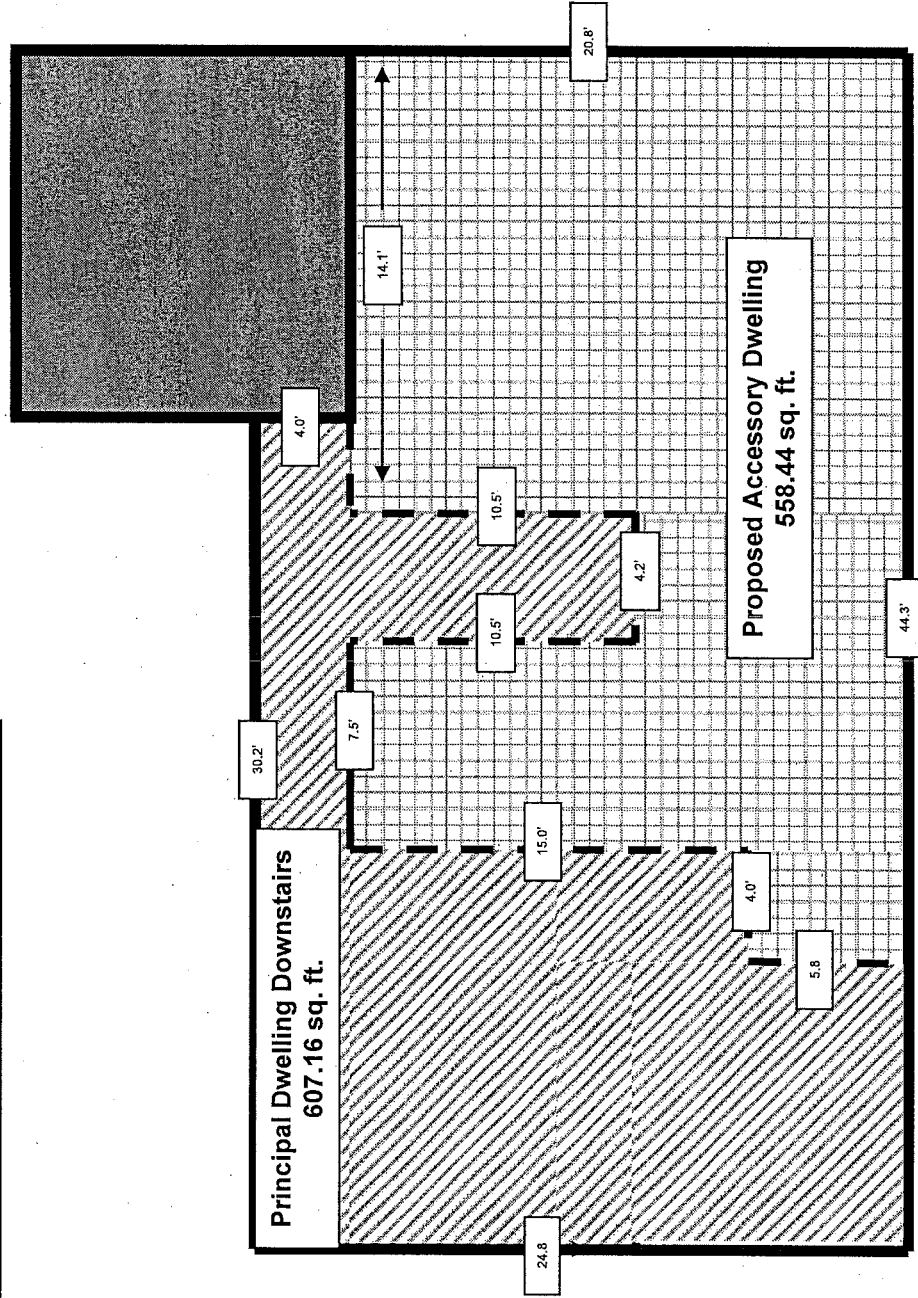
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# HOUSE AREA: DOWNSTAIRS

Not to scale



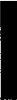



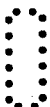

Principal Dwelling Total: appx. 2,619.71 sq. ft.  
Proposed Accessory Dwelling: appx. 558.44 sq. ft.



# HOUSE LAYOUT: DOWNSTAIRS

Not to scale



-  Outer wall
-  Inner wall
-  Door
-  Closet
-  Below ground
-  Stairs
-  Window
-  Access
- BD** Bedroom
- UT** Utility Room
- BT** Bathroom
- KT** Kitchen
- LV** Living R.
- PR** Enclosed Porch
- ST** Storage

